



Substitute Senate Bill No. 1458

Public Act No. 07-143

**AN ACT CONCERNING JESSICA'S LAW AND CONSENSUAL
SEXUAL ACTIVITY BETWEEN ADOLESCENTS CLOSE IN AGE TO
EACH OTHER.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 53a-71 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than [two] three years older than such other person; or (2) such other person is mentally defective to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or

Substitute Senate Bill No. 1458

former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) the actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

Sec. 2. Section 53a-73a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person intentionally subjects another person to sexual contact who is (A) under ~~[fifteen]~~ thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or [(B)] (C) mentally

Substitute Senate Bill No. 1458

defective or mentally incapacitated to the extent that such other person is unable to consent to such sexual contact, or ~~[(C)]~~ (D) physically helpless, or ~~[(D)]~~ (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or ~~[(E)]~~ (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal or dead body; or (4) such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or (5) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or (6) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (7) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (8) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen

Substitute Senate Bill No. 1458

years of age.

(b) Sexual assault in the fourth degree is a class A misdemeanor or, if the victim of the offense is under sixteen years of age, a class D felony.

Sec. 3. (NEW) (*Effective July 1, 2007*) (a) A person is guilty of aggravated sexual assault of a minor when such person commits a violation of subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-71, 53a-86, 53a-87 or 53a-196a of the general statutes, as amended by this act, and the victim of such offense is under thirteen years of age, and (1) such person kidnapped or illegally restrained the victim, (2) such person stalked the victim, (3) such person used violence to commit such offense against the victim, (4) such person caused serious physical injury to or disfigurement of the victim, (5) there was more than one victim of such offense under thirteen years of age, (6) such person was not known to the victim, or (7) such person has previously been convicted of a violent sexual assault.

(b) Aggravated sexual assault of a minor is a class A felony and any person found guilty under this section shall, for a first offense, be sentenced to a term of imprisonment of twenty-five years which may not be suspended or reduced by the court and, for any subsequent offense, be sentenced to a term of imprisonment of fifty years which may not be suspended or reduced by the court.

Sec. 4. Section 53-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) Any person who (1) wilfully or unlawfully causes or permits any child under the age of sixteen years to be placed in such a situation that the life or limb of such child is endangered, the health of such child is likely to be injured or the morals of such child are likely to be

Substitute Senate Bill No. 1458

impaired, or does any act likely to impair the health or morals of any such child, or (2) has contact with the intimate parts, as defined in section 53a-65, of a child under the age of sixteen years or subjects a child under sixteen years of age to contact with the intimate parts of such person, in a sexual and indecent manner likely to impair the health or morals of such child, or (3) permanently transfers the legal or physical custody of a child under the age of sixteen years to another person for money or other valuable consideration or acquires or receives the legal or physical custody of a child under the age of sixteen years from another person upon payment of money or other valuable consideration to such other person or a third person, except in connection with an adoption proceeding that complies with the provisions of chapter 803, shall be guilty of a class C felony for a violation of subdivision (1) or (3) of this subsection and a class B felony for a violation of subdivision (2) of this subsection, except that, if the violation is of subdivision (2) of this subsection and the victim of the offense is under thirteen years of age, such person shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court.

(b) The act of a parent or agent leaving an infant thirty days or younger with a designated employee pursuant to section 17a-58 shall not constitute a violation of this section.

Sec. 5. Section 53a-90a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) A person is guilty of enticing a minor when such person uses an interactive computer service to knowingly persuade, induce, entice or coerce any person under sixteen years of age to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense. For purposes of this section, "interactive computer service" means any information service, system or access software provider that provides or enables computer access by multiple users to a

Substitute Senate Bill No. 1458

computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(b) [Enticing] (1) Except as provided in subdivision (2) of this subsection, enticing a minor is a class D felony for a first offense, a class C felony for a second offense and a class B felony for any subsequent offense.

(2) Enticing a minor is a class B felony if the victim of the offense is under thirteen years of age and any person found guilty of such class B felony shall, for a first offense, be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court and, for any subsequent offense, be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court.

Sec. 6. Section 53a-196a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) A person is guilty of employing a minor in an obscene performance when [(1) he] such person (1) employs any minor, whether or not such minor receives any consideration, for the purpose of promoting any material or performance which is obscene as to minors, notwithstanding that such material or performance is intended for an adult audience, or (2) [he] permits any such minor to be employed, whether or not such minor receives any consideration, in the promotion of any material or performance which is obscene as to minors, notwithstanding that such material or performance is intended for an adult audience, and [he] such person is the parent or guardian of such minor or otherwise responsible for the general supervision of such minor's welfare.

(b) Employing a minor in an obscene performance is a class A felony

Substitute Senate Bill No. 1458

and any person found guilty under this section shall be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court.

Sec. 7. Section 53a-196c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) A person is guilty of importing child pornography when, with intent to promote child pornography, such person knowingly imports or causes to be imported into the state three or more visual depictions of child pornography of known content and character.

(b) Importing child pornography is a class B felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court.

Sec. 8. Section 53a-196d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) A person is guilty of possessing child pornography in the first degree when such person knowingly possesses fifty or more visual depictions of child pornography.

(b) Possessing child pornography in the first degree is a class B felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court.

Sec. 9. Section 53a-196e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) A person is guilty of possessing child pornography in the second degree when such person knowingly possesses twenty or more but fewer than fifty visual depictions of child pornography.

Substitute Senate Bill No. 1458

(b) Possessing child pornography in the second degree is a class C felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which two years of the sentence imposed may not be suspended or reduced by the court.

Sec. 10. Section 53a-196f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) A person is guilty of possessing child pornography in the third degree when such person knowingly possesses fewer than twenty visual depictions of child pornography.

(b) Possessing child pornography in the third degree is a class D felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which one year of the sentence imposed may not be suspended or reduced by the court.

Sec. 11. (NEW) (*Effective July 1, 2007*) (a) Notwithstanding any other rule of evidence or provision of law, a statement by a child under thirteen years of age relating to a sexual offense committed against that child, or an offense involving physical abuse committed against that child by a person or persons who had authority or apparent authority over the child, shall be admissible in a criminal, juvenile or civil proceeding if: (1) The court finds, in a hearing conducted outside the presence of the jury, if any, that the circumstances of the statement, including its timing and content, provide particularized guarantees of its trustworthiness, (2) the statement was not made in preparation for a legal proceeding, (3) the proponent of the statement makes known to the adverse party an intention to offer the statement and the particulars of the statement including the content of the statement, the approximate time, date and location of the statement, the person to whom the statement was made and the circumstances surrounding the statement that indicate its trustworthiness, at such time as to provide the adverse party with a fair opportunity to prepare to meet it, and (4)

Substitute Senate Bill No. 1458

either (A) the child testifies and is subject to cross-examination at the proceeding, or (B) the child is unavailable as a witness and (i) there is independent nontestimonial corroborative evidence of the alleged act, and (ii) the statement was made prior to the defendant's arrest or institution of juvenile proceedings in connection with the act described in the statement.

(b) Nothing in this section shall be construed to (1) prevent the admission of any statement under another hearsay exception, (2) allow broader definitions in other hearsay exceptions for statements made by children under thirteen years of age at the time of the statement concerning any alleged act described in subsection (a) of this section than is done for other declarants, or (3) allow the admission pursuant to the residual hearsay exception of a statement described in subsection (a) of this section.

Sec. 12. Section 53a-35a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and the term shall be fixed by the court as follows: (1) For a capital felony, a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a; (2) for the class A felony of murder, a term not less than twenty-five years nor more than life; (3) for the class A felony of aggravated sexual assault of a minor under section 3 of this act, a term not less than twenty-five years or more than fifty years; (4) for a class A felony other than [murder] an offense specified in subdivision (2) or (3) of this section, a term not less than ten years nor more than twenty-five years; [(4)] (5) for the class B felony of manslaughter in the first degree with a firearm under section 53a-55a, a term not less than five years nor more than forty years; [(5)] (6) for a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more

Substitute Senate Bill No. 1458

than twenty years, except that for a conviction under section 53a-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-134(a)(2), the term shall be not less than five years nor more than twenty years; ~~[(6)]~~ (7) for a class C felony, a term not less than one year nor more than ten years, except that for a conviction under section 53a-56a, the term shall be not less than three years nor more than ten years; ~~[(7)]~~ (8) for a class D felony, a term not less than one year nor more than five years, except that for a conviction under section 53a-60b or 53a-217, the term shall be not less than two years nor more than five years, for a conviction under section 53a-60c, the term shall be not less than three years nor more than five years, and for a conviction under section 53a-216, the term shall be five years; ~~[(8)]~~ (9) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

Sec. 13. Subsection (b) of section 53a-55a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(b) Manslaughter in the first degree with a firearm is a class B felony and any person found guilty under this section shall be sentenced to a term of imprisonment in accordance with subdivision ~~[(4)]~~ (5) of section 53a-35a, as amended by this act, of which five years of the sentence imposed may not be suspended or reduced by the court.

Sec. 14. Subsection (b) of section 54-125e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(b) When sentencing a person to a period of special parole, the court may, as a condition of the sentence, order such person to comply with any or all of the requirements of subsection (a) of section 53a-30. The court shall cause a copy of any such order to be delivered to such person and to the Department of Correction. The Board of Pardons and

Substitute Senate Bill No. 1458

Paroles may require that such person comply with any or all of the requirements of subsection (a) of section 53a-30 which the court could have imposed and which are not inconsistent with any condition actually imposed by the court. Any person sentenced to a period of special parole shall also be subject to such rules and conditions as may be established by the Board of Pardons and Paroles or its chairperson pursuant to section 54-126.

Approved June 25, 2007